

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Docket Number (Optional)

42390P11869

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on October 4, 2006.

Signature

Typed or printed
name Julie Dussault

Application No.

09/895,057

Filed

June 28, 2001

First Named Inventor

Curtis E. Jutzi

Art Unit

2134

Examiner

Tran, Ellen C.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

NOTE: No more than five (5) pages may be provided.

I am the:

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under of 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)
- ☒ Attorney or agent of record.
Registration Number 42,879
- ☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Signature

Paul A. Mendonsa

Typed or printed name

(503) 439-8778

Telephone Number

October 04, 2006

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required.

☐ *Total of _____ forms are submitted.



Mail Stop AF

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	09/895,057	Confirmation No. 9317
Inventors:	Curtis E. Jutzi et al.	
Filed:	June 28, 2001	
Art Unit:	2134	
Examiner:	Tran, Ellen C.	
Attorney Docket No.:	42390.P11869	
Customer No.:	25694	
For:	An Apparatus and Method for Enabling Secure Content Decryption Within a Set-Top Box	

Pre-Appeal Brief Request for Review

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Final Office Action dated **July 19, 2006**, Applicants request review of the final rejection in the above-identified application. This request is being filed with a Notice of Appeal. The review is being requested for the reasons stated on the attached sheets, which begin on page 2 of this Request for Review. No amendments are being filed with this request.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666.

Request for Review

Applicant is submitting this Request for Review because Applicant believes that there are clear errors in the Examiner's rejection. Applicant will clearly show that the Examiner has failed to establish a *prima facie* case of obviousness.

Rejection under 35 U.S.C. § 103

The Examiner, on page 2 of the Final Office Action, has rejected claims 1-30 under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent No. 6,782,476 (hereinafter referred to as "Ishibashi") and in view of U.S. Patent No. 7,017,189 (hereinafter referred to as "DeMello"). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

The Examiner has failed to establish a *prima facie* case of obviousness. Three criteria must be met to establish a *prima facie* case of obviousness. MPEP 2143. There must be some suggestion or motivation, either in the references themselves or in the knowledge available to one of skill in the art, to combine the references. *Id.* There must be a reasonable expectation of success. *Id.* And, lastly, the prior art references must teach or suggest all the claim limitations. *Id.* "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure." MPEP 2143 (*citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Applicant respectfully asserts that the Examiner has failed to establish a *prima facie* case of obviousness because the references cited by the Examiner, Ishibashi and DeMello, do not teach or suggest all of the claim limitations.

A common claim limitation of the present invention is: wherein the kernel application space is modified for registering the secure content driver with the content decryption component in order for the secure content driver to receive security identity authentication. The Examiner, on page 3 of the Final Office Action, acknowledges that Ishibashi does not teach this claim limitation. The Examiner, on page 3 of the Final Office Action, states that DeMello teaches this claim limitation and cites DeMello at col. 2, lines 38-67. Applicants respectfully assert that nothing in DeMello teaches or suggests this claim limitation. Applicants, on page 2 of the Reply to the Final Office Action, assert that DeMello fails to even mention the kernel application space and does not teach or suggest the kernel application space is modified for registering the secure content driver with the content decryption component in order for the secure content driver to receive security identity authentication. The Examiner, in the Advisory Action, states that DeMello teaches “the rendering application” and further states that this is an obvious variation of “kernel application space” as well as installation and or activation is reasonably interpreted to mean modification to the “rendering application.” The Examiner further states in the Advisory Action that authentication is accomplished in both DeMello and Ishibashi. Applicants assert that even if what the Examiner states in the Advisory Action is true, DeMello still does not teach or suggest the entire claim limitation of wherein the kernel application space is modified for registering the secure

Curtis E. Jutzi *et al.*
Appl. No. 09/895,057

content driver with the content decryption component in order for the secure content driver to receive security identity authentication.

Thus, for at least the above stated reasons, Applicants assert that Ishibashi and DeMello, do not teach or suggest all of the claim limitations. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness. Applicant asserts that claims 1-30 are patentable over Ishibashi and DeMello, either taken alone or in combination. Applicants therefore respectfully request that the Final Office Action be reviewed and the review result in the withdrawal of the finality of the Final Office Action dated July 19, 2006.

Respectfully submitted

Intel Corporation

Dated: October 4, 2006

/Molly A. McCall, Reg. No. 46,126/
Molly A. McCall
Patent Attorney
Intel Americas, Inc.
(703) 633-0931

I, Julie Dussault, hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on October 4, 2006


(Signature of person mailing correspondence)